IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT APPEAL NO : 2207 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 24/11/2004 in WP NO : 16515 OF 2002 on the file of the High Court.)

Between:

1 The Prohibition and Excise Superintendent, Medak District at Sangareddy.
2 The Sub-Divisional Prohibition & Excise officer, Siddipet, Medak District.
3 The Commissioner of Proh. & Excise, Government of Andhra Pradesh, Hyderabad.

..... APPELLANT(S)

AND

N.Shivappa, S/o.Nagaraju,
R/o.1-3-36/12, Paripalli Street,
Siddipet, Medak District.

.....RESPONDENT

Counsel for the Appellants: GP FOR PROHIBITION & EXCISE

Counsel for the Respondent: MR.T.AMARNATH GOUD

The Court made the following Oral Judgment: (per Sri Devinder Gupta,CJ)

We have gone through the order impugned in the writ petition.

Writ Petitioner-Respondent was a licensee for I.L. 24 for the Excise Year 2001-2002. He did apply for renewal of the licence for Excise Year 2002-2003 by making deposit of Rs.1,00,000/- (Rupees One Lakh only) and also furnished Bank Guarantee for Rs.2,00,000/- (Rupees Two Lakhs Ony), dated 4.4.2002 of UCO Bank, Sangareddy Branch, Medak District. Before the licence was actually renewed, he applied for shifting of the shop and on 30.3.2002, he submitted a representation that he may be permitted to shift the shop from Ananthasagar village to Chinnakodur and if shifting is not permitted, he will not be interested in the renewal of the licence. Neither shifting of the premises was ordered nor renewal of licence was done. Ultimately, writ petitioner applied for refund of the amount. The amount was not refunded and he was asked to select another site, failing which, amount would stand forfeited.

Learned single judge has considered all these aspects and held that non-refund of the amount is bad in law, inasmuch-as respondent-appellants have no right to forfeit the amount since there has been no renewal and no shifting and accordingly directed the respondents/appellants to refund the amounts to the writ petitioner within 72 hours besides imposition of costs of Rs.1,000/-, to be paid within one month. This order is under challenge in this appeal.

We have heard the learned counsel for the appellants and we do not find any substance in the appeal inasmuch as in the absence of any renewal or shifting, appellants had no authority to retain the amount or to forfeit the same. Forfeiture of the amount deposited has to be under certain eventualities, which had not occurred in the instant case. Before licence was renewed, the writ petitioner had requested the respondents to shift the shop and in case shifting was not ordered, he stated that he was not interested in renewing. Therefore, the order of learned single judge does not suffer from any illegality. We are, however, inclined to set aside that part of the order of the learned single judge, which imposed costs of Rs.1,000/- on the appellants.

The writ petition is accordingly allowed in part as regards imposition of costs of Rs.1,000/- is concerned. The time to refund of the amounts is extended by a period of one week from today.

The writ appeal is accordingly disposed of. No costs.

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DEVINDER GUPTA, CJ

Date: 27th January, 2005

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M. NARAYANA REDDY,J

pnb

To

1 The Prohibition and Excise Superintendent, Medak District at

Sangareddy.
2 The Sub-Divisional Prohibition & Excise officer, Siddipet, Medak District.
3 The Commissioner of Proh. & Excise, Government of Andhra Pradesh,

Hyderabad.

4 Two C.Cs. to the Government Pleader for Prohibition & Excise,

High Court Buildings, Hyderabad. (OUT)

5 Two C.D. Copies